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18 SWISS INTERNATIONAL AIR LINES LTD.

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA — SAN FRANCISCO DIVISION

21 THE WAVE STUDIO, LLC, a New York Limited
22 Liability Company,

23 Plaintiff,

24 v.

25 BRITISH AIRWAYS PLC, a United Kingdom
Corporation, HOTELS COMBINED LLC, an
26 Australian Corporation, SWISS
INTERNATIONAL AIR LINES LTD., a
27 Switzerland Corporation d/b/a SWISS, TRAVIX
TRAVEL USA INC., a Georgia Corporation,
VISITUSA LLC, a Utah Limited Liability
28 Company, and DOES 1-100,

Defendants.

Case No.: 3:15-cv-01341-RS

**DEFENDANTS, BRITISH AIRWAYS
PLC, SWISS INTERNATIONAL AIR
LINES LTD., AND TRAVIX TRAVEL
USA INC.'S NOTICE OF PENDENCY
OF OTHER ACTION (CIVIL L.R. 3-13)**

Judge: Hon. Richard Seeborg

1 Under Civil Local Rule 3-13, Defendants British Airways PLC, Swiss International Air
 2 Lines Ltd., and Travix Travel USA Inc. (“Certain Defendants”) submit this Notice of Pendency of
 3 Other Action or Proceeding to give notice of another action involving substantially the same
 4 subject matter and parties as this action. Plaintiff Wave Studio does not oppose this notice.

5 On December 31, 2013, Plaintiff in this action filed an action titled *The Wave Studio, LLC*
 6 *v. General Hotel Management Ltd. et al.*, Case No. 7:13-cv-09239-CS-PED (“ ‘9239 Dkt.’”), in
 7 the United States District Court for the Southern District of New York, located at The Hon.
 8 Charles L. Brieant Jr. Federal Building and United States Courthouse, 300 Quarropas St., White
 9 Plains, NY 10601-4150. In that action, Plaintiff has alleged that General Hotel Management and
 10 dozens of other defendants have infringed Plaintiff’s copyrights in photographs of hotels. All of
 11 the copyright registrations alleged as infringed in the *General Hotel Management* action are
 12 alleged to have been infringed in this action. The District Court for the Southern District of New
 13 York stayed the *General Hotel Management* action as to all defendants except GHM, allowing
 14 Wave and GHM to first litigate the threshold issue of whether GHM held or lawfully licensed the
 15 copyrights in the images. *See* ‘9239 Dkt. 67.

16 This action is related to the *General Hotel Management* litigation because both cases
 17 share the same plaintiff and overlapping copyright registrations. It also shares the threshold legal
 18 question whether GHM has an implied license for, or owns, the copyright to the allegedly
 19 infringing photographs.

20 Under Civil Local Rule 3-13(b)(3)(B), this action should be coordinated with the *General*
 21 *Hotel Management* litigation by staying this action or transferring it to the Southern District of
 22 New York pending the District Court for the Southern District of New York’s determination on
 23 GHM’s license and copyright ownership defense. A stay would conserve resources and promote
 24 the efficient determination of this action, because if the District Court for the Southern District of
 25 New York rules in favor of GHM, then Plaintiff will lack standing to bring this action. Transfer
 26 to the Southern District of New York or other coordination may be appropriate, depending on the
 27 nature of the District Court for the Southern District of New York’s decision and status of the
 28 *General Hotel Management* action.

1 Dated: September 11, 2015

FENWICK & WEST LLP

3 By: /s/ Jedediah Wakefield

Jedediah Wakefield

Todd R. Gregorian

Sebastian E. Kaplan

Attorneys for Defendant

TRAVIX TRAVEL USA INC.

8 Dated: September 11, 2015

BRINKS, GILSON & LIONE

10 By: /s/ William H. Frankel

William H. Frankel

Danielle Anne Phillip

Attorneys for Defendants

BRITISH AIRWAYS PLC and

SWISS INTERNATIONAL AIR LINES LTD.

15 **ATTESTATION OF SIGNATURES**

16 Pursuant to Local Civil Rule 5-1(i), I hereby attest that I have obtained concurrence in the
17 filing of this document from each of the Signatories.

18 Dated: September 11, 2015

FENWICK & WEST LLP

20 By: /s/ Jedediah Wakefield

Jedediah Wakefield

Attorneys for Defendant

TRAVIX TRAVEL USA INC.

PROOF OF SERVICE

The undersigned declares as follows: I am a citizen of the United States and employed in San Francisco County, State of California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Fenwick & West LLP, 555 California Street, 12th Floor, San Francisco, CA 94104. On the date set forth below, I served copies of the following documents:

DEFENDANTS, BRITISH AIRWAYS PLC, SWISS INTERNATIONAL AIR LINES LTD., AND TRAVIX TRAVEL USA INC.'S NOTICE OF PENDENCY OF OTHER ACTION (CIVIL L.R. 3-13)

on the interested parties in the subject action by placing a true copy thereof as indicated below, addressed as follows:

Movant for VisitUSA, LLC:

David Urman
1912 Blaine Avenue
Salt Lake City, UT 84108

☒ **BY US MAIL:** by placing the document(s) listed above in a sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with our ordinary business practices for collecting and processing mail for the United States Postal Service, and mail that I place for collection and processing is regularly deposited with the United States Postal Service that same day with postage prepaid.

I declare under penalty of perjury under the laws of the State of California and the United States that the above is true and correct.

Date: September 11, 2015

/s/ Peggy Vertin
Peggy Vertin